

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**EDGAR ULLOA LUJAN, SAMAR AHMAD, and VERONICA GONZALEZ,**

*Plaintiffs,*

**V.**

**UNITED STATES DEPARTMENT OF  
EDUCATION, MIGUEL CARDONA**, *in  
his official capacity as Secretary of the U.S.  
Department of Education*, **and NASSER H.  
PAYDAR**, *in his official capacity as  
Assistant Secretary of Postsecondary  
Education of the U.S. Department of  
Education*,

***Defendants.***



**3:22-CV-00159-DCG**

## ORDER CLARIFYING SCOPE OF PRELIMINARY INJUNCTION

On March 24, 2023, the Court enjoined Defendants from applying the Foreign Language Criterion, 34 C.F.R. § 662.21(c)(3), in a manner that devalues a Fulbright-Hays Fellowship applicant’s foreign language skills in their native language.<sup>1</sup> *See* Prelim. Inj. Op., ECF No. 37, at 14–28, 31. The parties interpret the scope of the Court’s injunction differently. *Compare* Mot. Clarification, ECF No. 38, *with* Resp., ECF No. 39. Defendants believe the injunction entirely prevents them from assessing an applicant’s foreign language proficiency—native language or otherwise—under 34 C.F.R. § 662.21(c)(3). Resp. at 1–2. Plaintiff Gonzalez believes the injunction only prevents Defendants from applying the portion of the Foreign Language

<sup>1</sup> The Court limited this relief to the 2023 Fulbright-Hays Fellowship application cycle. Prelim. Inj. Op., ECF No. 37, at 31 (“[T]he Court vacates 34 C.F.R. § 662.21(c)(3) as to all 2023 Fulbright-Hays Fellowship applicants.”).

Criterion that requires applicants to be proficient in a language “other than . . . the applicant’s native language.”<sup>2</sup> Mot. Clarification at 4–5, 8.

Plaintiff Gonzalez’s interpretation is correct. The Court did not invalidate 34 C.F.R. § 662.21(c)(3) in its entirety. The Court thus **CLARIFIES** that its injunction applies only insofar as the Foreign Language Criterion prohibited considering an applicant’s native language skills.<sup>3</sup>

**So ORDERED and SIGNED this 3rd day of April 2023.**

A handwritten signature in black ink, appearing to read "David C. Guaderrama", written over a horizontal line.

**DAVID C. GUADERRAMA**  
**UNITED STATES DISTRICT JUDGE**

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<sup>2</sup> For clarity, this is the portion of 34 C.F.R. § 662.21(c)(3) that Plaintiff Gonzalez has deemed the “native-language penalty.” *See, e.g.*, Mot. Clarification, ECF No. 38, at 1. Moreover, the Court did not disturb section 662.21(c)(3)’s position on the assessment (or lack thereof) of an applicant’s English language proficiency.

<sup>3</sup> Defendants do not oppose this scope of relief. Resp. at 3 (“[T]o the extent Plaintiffs ask [] the Court to narrow the injunction in a manner that only enjoins 34 C.F.R. § 662.21(c)(3) insofar as it excludes consideration of native language skills, but leaves the remainder of the regulatory provision intact, Defendants take no position and do not oppose that outcome.”).